



Oklahoma Deployed Parents Custody and Visitation Act



What is the Deployed Parents Custody and Visitation Act?

Enacted May 26, 2011, the Deployed Parents Custody and Visitation Act protects the rights of deployed military parents to ensure that child custody arrangements in place before they deploy will be reinstated post-deployment. It also allows a deployed parent to designate a person with a close relationship to the child, including stepparents, siblings and grandparents, to exercise the deployed parent's visitation rights during the deployment.

Who is protected by the Act?

Servicemember parents or guardians with custodial responsibility facing deployment. In addition, effective November 1, 2017, Department of Defense civilian employees or contractors serving in designated combat zones receive the benefits of the Act.

How does the Act work?

5-Step Process:

1) Notification

The deploying parent is required to provide a copy of the deployment orders to the other parent within 10 days of receipt. If the deployment date is less than 10 days, the deploying parent shall immediately provide the orders to the nondeploying parent.

2) Application for Temporary Orders

Upon notification of deployment, either parent may apply to the court for temporary orders regarding custody, visitation and child support.

3) Hearing

Expedited

Either parent may request an expedited hearing to be held within 10 days or prior to deployment, whichever occurs first. The judge shall grant the request if the deploying parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing would be prevented by the deployment or preparation for deployment.

Delegated visitation request

The person designated by the deploying parent to exercise the deployed parent's visitation shall appear at the hearing.

Electronic testimony

If the deploying parent is unavailable to appear at the hearing but elects to participate, he/she may provide evidence through video conferencing, Internet camera, e-mail, telephone, or other reasonable electronic means.

4) Content of the Temporary Order. The temporary order shall:

- Identify the nature of the deployment that is the basis for the order.
- Specify that the order is temporary.
- Specify the contact between the deploying parent and the child during deployment, including communication means such as internet camera, telephone, e-mail and other available means.
- Direct liberal contact between the deploying parent and child when the deploying parent is on leave, consistent with the best interest of the child.
- Require the nondeploying parent and any third party assigned visitation to notify the court of any change in address.
- Upon request by either parent, the court may also enter a temporary order for child support and require DEERS enrollment.

If visitation rights are delegated to a designated family member or another person with a close and substantial relationship to the child, the temporary order shall:

- Set out a process to resolve any disputes between the person receiving visitation and the nondeploying parent;
- Identify the nature of the deployment that is the basis for the order; and
- Specify that the order is temporary and shall terminate 10 days after notice has been provided to the nondeploying parent of the end of the deployment.

5) End of Deployment and Automatic Reinstatement

The deploying parent shall notify the nondeploying parent of the completion of the deployment. If the deploying parent is unable to locate the nondeploying parent, the deploying parent shall notify the court.

Any temporary modification order entered in accordance with the Act shall terminate 10 days after notice has been provided to the nondeploying parent of the completion of the deployment. The original terms of the prior custody or visitation order shall be automatically reinstated.

What is “delegated visitation” and how does it work?

If the deploying parent has rights to visit and spend time with his or her child, another relative or person, including a stepparent or step-sibling, can fill that role as a temporary delegate for visitation so long as there is prior close and substantial relationship between the child and the delegate. The deploying parent applies to the court to have his or her visitation rights exercised by the other person. Delegated visitation is temporary and shall terminate 10 days after notice has been provided to the nondeploying parent of the end of deployment. Delegated visitation derives from the deploying parent’s own custodial rights and the Act does not create any separate or permanent right to visitation by the third parties.

Will I be able to communicate with my child during my deployment?

Any temporary order entered by the court as a result of your deployment must specify the means by which you are allowed contact with your child during deployment including electronic communication by Internet camera, telephone, e-mail and other available means. You are entitled to see your child during periods of leave, if feasible and consistent with the child’s best interest.

How does this law affect my existing custody order that addresses future deployments?

If a prior judicial custody or visitation order contains provisions for custodial responsibility of the child in the event of deployment, those provisions shall not be modified by the court unless:

- A subsequent substantial change of circumstances has occurred after the prior judicial custody or visitation order was issued, OR
- A showing that enforcement of the provisions of the prior judicial custody or visitation order would result in substantial harm to the child.

If the deploying parent and the nondeploying parent have previously agreed in writing to provisions for the custodial responsibility of the child in the event of deployment, there shall be a rebuttable presumption that the agreement is in the best interest of the child. The presumption may be overcome only if the court makes specific findings of fact establishing that the agreement is not in the best interest of the child.

Updated November 2017

This Information Paper provides only basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058 or (580) 442-5059. The Fort Sill Legal Assistance Office is located on the 4th floor of Building 4700, Hartell Hall (Welcome Center) at 4700 Mow-Way Road.

